



ATTY. DOCKET NO. SALK3130-1 (088802-9702)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Downes et al.

Application No.: 10/658,115

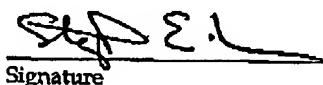
Filed: September 8, 2003

For: NON-STEROIDAL FARNESOID X  
RECEPTOR MODULATORS AND  
METHODS FOR THE USE THEREFOR

) Group Art Unit: 1645

) Examiner: Unknown

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the documents referred to as  
enclosed herein are being facsimile transmitted to:  
Commissioner for Patents, P.O. Box 1450, Alexandria  
VA 22313-1450Stephen E. Reiter, Reg. No. 31,192  
(Name of person mailing paper)


October 25, 2004

Date

Commissioner for Patents  
P.O. Box 1450  
Washington, D.C.PETITION UNDER 37 CFR §1.47(a)

Sir:

Applicant hereby petitions the United States Patent and Trademark Office to accept the papers submitted herewith for completion of the filing requirements in the above identified application.

As detailed in the attached declaration from Attorney Sheila R. Kirschenbaum, in-house counsel for Applicants Downes and Evans, a copy of the application as filed and the formal papers for signature were separately provided for signature to Attorney Thomas Fitting, the legal representative for inventors Robert Hughes, K.C. Nicolau and Anthony J. Roecker. However, in a letter dated April 6, 2004, while acknowledging receipt of the letter dated January 29, 2004, from The Salk Institute for Biological Studies, Dr. Fitting advised that the Declaration for Patent Application would not be signed by the inventors. Thus, in spite of Applicants' repeated request for return of the executed documents, no reply has been received from any of inventors Robert Hughes, K.C. Nicolau and Anthony J. Roecker.

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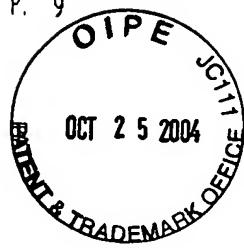
PAGE 8/13 \* RCVD AT 10/25/2004 7:44:29 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-2/0 \* DNIS:7464060 \* CSID: \* DURATION (mm:ss) 03:34

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Atty Dckt No.: SALK3130-1  
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An executed Declaration of Facts in Support of Petition Under 37 C.F.R. §1.47 is enclosed herewith.

Based on the foregoing, it is submitted that Applicants have satisfied the requirements of 37 CFR 1.47(a).

Please charge the amount of \$130.00 to cover the petition fee to Deposit Account No. 50-0872. The Commissioner is hereby authorized to charge any other fees that may be required by this paper or credit any overpayment to Deposit Account No. 50-0872. A duplicate copy of this Petition is attached.

Respectfully submitted,

By Stephen E. Reiter

Stephen E. Reiter  
Attorney for Applicant  
Registration No. 31,192

Date: October 25, 2004  
FOLEY & LARDNER LLP  
Customer Number: 30542  
Telephone: (858) 847-6711  
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Enclosures

023.261630.1

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Examiner: Unknown

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the date below.

Stephen E. Reiter

Printed Name

Step E. L 10/26/04

Signature

Date

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

DECLARATION OF FACTS IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.47

I, Sheila R. Kirschenbaum, declare that:

1. I, Sheila R. Kirschenbaum am Patent Counsel to Applicant, the Salk Institute for Biological Studies located in La Jolla, CA.
2. Inventors Michael Downes and Ronald Evans were employed by the Salk Institute for Biological Studies at the time of conception of the invention. A Declaration by Inventor, executed by Drs. Downes and Evans was submitted on June 23, 2004 to the United States Patent and Trademark Office.
3. Inventors Robert Hughes, K.C. Nicolaou and Anthony J. Roecker were employed by The Scripps Research Institute located in La Jolla, CA at the time of conception of the invention.

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4. Thomas Fitting, Esq., Ph.D. is Chief Patent Counsel to The Scripps Research Institute, and is the legal representative of Messrs. Hughes, Nicolaou and Roecker with respect to patent matters.
5. A Declaration by Inventor for signature by Messrs. Hughes, Nicolaou and Roecker in United States Application No. 10/658,115 along with copies of the application were sent to Dr. Fitting, Esq. via U.S. Postal Service on January 29, 2004. Dr. Fitting, as legal representative of Messrs. Hughes, Nicolaou and Roecker, was informed in an accompanying letter of the requirement that each inventor named on United States Application No. 10/658,115, including Messrs. Hughes, Nicolaou and Roecker, execute a Declaration by Inventor.
6. No Declaration in United States Application No. 10/658,115, signed by Messrs. Hughes Nicolaou or Roecker was received in response to the request described in point 3.
7. Dr. Fitting, Esq., in a letter dated April 6, 2004, acknowledged receipt of Salk's letter dated January 29, 2004 requesting signatures on a Declaration by Inventors. Dr. Fitting, Esq. informed Salk that he would not provide Salk with the requested executed Declaration by Inventor as the inventors would not be signing the document.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date 21 October 2004

Sheila R. Kirschenbaum

Sheila R. Kirschenbaum  
Patent Counsel,  
The Salk Institute